

1 Rule 4-201. Record of proceedings.

2 Intent:

3 To establish the means of maintaining the official record of court proceedings in all
4 courts of record.

5 To establish the manner of selection and operation of electronic devices.

6 To establish the procedure for requesting a transcript for a purpose other than for an
7 appeal.

8 Applicability:

9 This rule shall apply to all courts of record.

10 Statement of the Rule:

11 (1) Guidelines for court reporting methods. The ~~official~~-verbatim record of court
12 proceedings shall be maintained in accordance with the following guidelines:

13 (1)(A) Except as provided in this rule, a video or audio recording system shall
14 maintain the ~~official~~-verbatim record of all court proceedings.

15 (1)(B) An official court reporter or approved substitute court reporter shall maintain
16 the ~~official~~-verbatim record in all proceedings in capital felonies.

17 (1)(C) At the judge's discretion and subject to availability, an official court reporter or
18 approved substitute court reporter should maintain the ~~official~~-verbatim record in:

19 (1)(C)(i) all evidentiary hearings after arraignment and all trials in first degree
20 felonies;

21 (1)(C)(ii) in cases in which the judge finds that an appeal of the case is likely,
22 regardless of the outcome in the trial court;

23 (1)(C)(iii) in cases in which the judge determines there is a substantial likelihood a
24 video or audio recording would jeopardize the right to a fair trial or hearing; or

25 (1)(C)(iv) in any other proceeding or portion of a proceeding, upon a showing of
26 good cause.

27 (1)(D) If a proceeding is reported by a court reporter, an electronic recording of the
28 proceeding shall not be made, except that electronic recording may be made as part of
29 the judge's or court reporter's notes for personal use.

30 ~~(1)(D)~~-(1)(E) Reporters shall be assigned to cover courtroom proceedings as set
31 forth above. In the event of a conflict in the request for an official court reporter, the trial

court executive or managing reporter shall confer with the presiding judge, who shall resolve the conflict.

~~(1)(E)-(1)(F)~~ A recording technology other than the presumed technology may be used if the presumed technology is not available. The use of a technology other than the presumed technology shall not form the basis of an issue on appeal.

~~(1)(F)-(1)(G)~~ The Administrative Office shall periodically study the state of the art of electronic recording technology and technology employed in computer integrated courtrooms and make recommendations to the Judicial Council of systems to be approved.

(2) ~~Operating and maintaining the electronic recording system.~~ Record security.

~~(2)(A) The clerk of the court or designee shall operate the electronic recording system in the courtroom so as to accurately record the proceedings. The operator shall be trained in the operation of the system. The operator shall maintain a log of each recorded proceeding.~~

~~(2)(B) When a video~~ (2)(A) If a proceeding is recorded by an analogue video recording system ~~is used to maintain the official verbatim record of court proceedings,~~ at least two original recordings shall be made. One original recording and log shall be filed with the clerk of the court ~~as part of the official court record.~~ A second original recording shall be kept in a secure, off site storage area. ~~The clerk of the court shall keep the original recording at the courthouse in accordance with the record retention schedule.~~

~~(2)(B) When an~~ If a proceeding is recorded by an analogue audio recording system, ~~is used to maintain the official verbatim record of court proceedings~~ one original recording shall be ~~made~~ filed with the clerk of the court.

~~(2)(C) If a proceeding is recorded by a court reporter, an electronic recording of the proceeding shall not be made, except that a judge may direct a single original of an electronic recording be made as part of the judge's notes for personal use in the deliberative process under Utah Code Section 63-2-103(18)(b)(ix).~~

(2)(C) If a proceeding is reported by a court reporter or recorded by a digital recording system, the administrative office of the courts shall maintain the files and backup files.

(3) The official court record.

(3)(A) ~~In proceedings in which a video or audio recording system is used, the court's original video or audio record and log shall be the official court record. In proceedings in which an official court reporter is used, the reporter's shorthand notes shall be the official court record. The Utah Rules of Appellate Procedure govern the record on appeal.~~

~~(3)(B) The official court record shall be filed with the clerk of the court. If the record of a hearing is transcribed by an official court reporter or official court transcriber, the certified transcript is the official record. If the record of a hearing is not transcribed, the court reporter's file, the tape or the digital file is the official record.~~

~~(3)(C) (3)(B)~~ The clerk of the court ~~shall be the custodian of the official court record and~~ may release the official court record only to ~~a judge, the clerk of the Supreme Court or Court of Appeals, the trial court executive, court personnel~~ or the official court transcriber. The clerk shall enter in the docket the name of the recipient and when the official court record was released and returned. Obtaining a copy of the official court record shall be governed by rules regulating access to court records.

(4) Requests for transcripts.

(4)(A) A request for transcript for an appeal is governed by Utah R.App.P. 11 and Utah R.App.P. 12.

(4)(B) A request for transcript or expedited transcript shall be accompanied by the fee established by Section 78-56-108 and filed with the court executive or, if one has been appointed, the managing court reporter. ~~A request for an expedited transcript shall be accompanied by the fee established by Section 78-56-108 and filed with the court executive.~~ The court executive or managing court reporter shall assign the preparation of the transcript in the same manner as Utah R.App.P. 12.